



- (1) Whether claimant suffered personal injury by accident arising out of and in the course of his employment with the respondent.
- (2) The nature and extent of claimant's disability, if any.
- (3) Liability of the Workers Compensation Fund.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire record and having considered the briefs and arguments of the parties, the Appeals Board finds that the Award entered by the Administrative Law Judge should be affirmed.

The findings of fact and conclusions of law as enumerated in the Award by the Administrative Law Judge are found to be accurate and appropriate and are hereby adopted by the Appeals Board as its own as if specifically set forth herein. The Appeals Board agrees that claimant has sustained his burden of proof that the herniated disc, for which surgery was performed, was the natural and probable result of his accident at work.

The Appeals Board, further, adopts the analysis of the evidence by the Administrative Law Judge regarding the nature and extent of claimant's disability. Specifically, the Appeals Board finds that claimant has proven by a preponderance of the credible evidence a work disability of 86 percent.

Respondent has not sustained its burden of proving that it knowingly hired or retained a handicapped employee. Accordingly, the Workers Compensation Fund has no liability for this Award.

#### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated January 2, 1996 should be, and the same is hereby, affirmed in all respects. The orders contained in the Award are hereby adopted by the Appeals Board as its own.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 1996.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Robert R. Lee, Wichita, KS  
Frederick L. Haag, Wichita, KS  
Marvin R. Appling, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director